

# EXHIBIT 1

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PAT MAUNEY

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA**

VENTURIST, INC.,

Plaintiff,

**V.**

PAT MAUNEY,

**Defendant.**

Case No. \_\_\_\_\_

**DECLARATION OF PAT MAUNEY IN  
SUPPORT OF NOTICE OF REMOVAL  
TO U.S. DISTRICT COURT, MIDDLE  
DISTRICT OF ALABAMA**

1. I, Pat Mauney, have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts under oath.

2. I was an employee of Venturist, Inc from June 1, 2000 until March 2006. From June 1, 2000 until December 2002, I was employed with Venturist, Inc. in Montgomery, Alabama. However, from January 2003 until March 2006, I was employed with Venturist, Inc. in Sacramento, California. My duties while employed with Venturist, Inc. in California included, but were not limited to, sales, marketing, and administrative tasks such as scheduling appointments, scheduling seminars, setting up facilities for seminars, and ordering gifts for clients.

1           3.     While employed with Venturist, Inc. in Sacramento, California, Venturist,  
2 Inc. labeled me as an independent contractor. I do not believe that I satisfied the requirements of  
3 an independent contractor. Specifically, I was expected to and solely did perform work only for  
4 Venturist, Inc. The Chief Executive Officer of Venturist, Inc., John Warden, controlled the manner  
5 in which I performed my job and the final result of any of the sales I completed or the  
6 administrative tasks I performed. Additionally, Venturist, Inc. provided me with the tools to  
7 perform my duties, including a laptop computer, cellular phone, office supplies, and travel  
8 expenses. My employment with Venturist, Inc. was at-will and could be terminated by me or  
9 Venturist, Inc. at any time. Finally, the employment contract that I entered into with Venturist, Inc.  
10 in June 2000, labels me as an "employee." I did not sign any other written contract with Venturist,  
11 Inc. until December 2005. In the December 2005 contract, I am also labeled as an "employee."

12           4.     The issue of whether I was an "exempt employee" of Venturist, Inc. during  
13 my employment with Venturist, Inc. in California never arose because Venturist, Inc. maintained,  
14 that I was an independent contractor. I am not aware of any exemption that I satisfied during my  
15 employment with Venturist, Inc.

16           5.     Despite the fact that to my knowledge I was neither an independent  
17 contractor nor an exempt employee, Venturist, Inc. did not keep track of the hours I worked. I  
18 estimate that I worked approximately 55 hours each week. I notified the CEO of Venturist, Inc.,  
19 John Warden, that I was regularly working overtime. However, I was never compensated for any  
20 overtime wages I worked. As set forth in the claim I filed with the Department of Labor Standards  
21 Enforcement ("DLSE") in California, Venturist, Inc. owes me approximately \$105,294 in unpaid  
22 overtime wages. A true and correct copy of the claim I filed with the DLSE in California is  
23 attached hereto as Exhibit "B."

24           6.     While employed with Venturist, Inc. from March 2003 until December 2005,  
25 I was paid solely on commissions. As set forth more specifically in Exhibit "B," attached hereto,  
26 during my employment with Venturist, Inc., I earned, but was not properly paid commissions in the  
27 amount of approximately \$126,437.10.

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1           7.       During my employment with Venturist, Inc. I earned vacation in the  
 2 following manner: Year 2002 – three weeks vacation; Year 2003 – three weeks vacation; Year  
 3 2004 – three weeks vacation; Year 2005 – three weeks vacation; Year 2006 – four weeks vacation.  
 4 In Year 2002, I only used one week of vacation; in Year 2003, I only used two weeks of vacation;  
 5 in Year 2004, I only used one week of vacation; in Year 2005, I only used eight days of vacation;  
 6 and, in Year 2006, I did not use any vacation. At the time my employment with Venturist, Inc.  
 7 ended in March 2006, I was not fully compensated for my accrued, but unused vacation.  
 8 Accordingly, as set forth in Exhibit “B,” attached hereto, Venturist, Inc. owes me \$8,797.00 in  
 9 unpaid vacation time.


10           8.       During my employment with Venturist, Inc. in California, I do not recall  
 11 ever taking a thirty minute, uninterrupted meal break. Accordingly, as set forth in Exhibit “B,”  
 12 Venturist, Inc. owes me \$5,000 in meal break penalties.

13           9.       To date, Venturist, Inc. has not paid me for the commissions, overtime, and  
 14 accrued vacation that I am owed. As such, I believe I am entitled to waiting time penalties  
 15 provided under California Labor Code section 203, in the amount of \$5,676. This claim is also set  
 16 forth in Exhibit “B,” attached hereto.

17           10.      Based on the above, in the event Venturist, Inc. is successful with its  
 18 declaratory relief action, it will avoid paying me over \$300,000 in unpaid wages and penalties.

19           11.      On May 2, 2006, I went to the post office in Sacramento, California to pick  
 20 up and sign for the complaint filed by Venturist, Inc., in the Circuit Court of Montgomery, Alabama,  
 21 that was sent to me by certified mail. A true and correct copy of the complaint filed by Venturist,  
 22 Inc. that I received on May 2, 2006, is attached to the Notice of Removal to U.S. District Court,  
 23 Middle District of Alabama.

24           I declare under the penalty of perjury under the laws of the United States, the State of  
 25 Alabama, and the state of California that the foregoing is true and correct, and that this declaration  
 26 was executed on May 31, 2006 in Sacramento, California.

27   
 28 Pat Mauney